

FILED

JAN 11 2008

**CATHY A. GATTERSON, CLERK
U.S. COURT OF APPEALS**

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOSEPH MITCHELL,

Plaintiff - Appellant,

v.

SAN JOSE IMMIGRATION AND
CUSTOMS ENFORCEMENT
DIRECTOR; et al.,

Defendants - Appellees.

No. 07-16933

D.C. No. CV-07-03843-SI
Northern District of California,
San Francisco

ORDER

FILED

JAN 17 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Before: O'SCANNLAIN and SILVERMAN, Circuit Judges.

The district court has certified that this appeal is not taken in good faith, and so has revoked appellant's in forma pauperis status. Our review of the record confirms that appellant is not entitled to in forma pauperis status for this appeal. *See* 28 U.S.C. § 1915(a).

Accordingly, within 21 days after the date of this order, appellant shall pay \$455.00 to the district court as the docketing and filing fees for this appeal and file proof of payment with this court. Failure to pay the fees will result in the automatic dismissal of the appeal by the Clerk for failure to prosecute, regardless of further filings. *See* 9th Cir. R. 42-1.

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No motions for reconsideration, clarification, or modification of the denial of appellant's in forma pauperis status shall be filed or entertained.

If appellant pays the fees as required and files proof of such payment in this court, appellant shall simultaneously show cause why the judgment challenged in this appeal should not be summarily affirmed. *See* 9th Cir. R. 3-6. If appellant pays the fees but fails to file a response to this order, the Clerk shall dismiss this appeal for failure to prosecute. *See* 9th Cir. R. 42-1.

If the appeal is dismissed for failure to comply with this order, the Clerk shall not file or entertain any motion to reinstate the appeal that is not accompanied by proof of payment of the docketing and filing fees and a response to the order to show cause.

Briefing is suspended pending further order of this court.